

Remarks

As noted above, it has been requested that the submission entitled "Amendment Under 37 C.F.R. § 1.116", received on August 23, 2007, not be entered as the submission required for the accompanying Request for Continued Examination.

Claims 1-12 are pending. Reconsideration of the application in view of this Paper is respectfully requested.

I. Claim Rejection(s) under 35 U.S.C. § 102

The Office Action is a Final Office Action maintaining that claims 1-12 are rejected. It is believed that the basis for the rejection is the assertion, made in the Office Action mailed October 5, 2006, under 35 U.S.C. § 102(e) that the claims are anticipated by U.S. Patent Application Publication No. 2003/0181168 to Herrod et al. (hereinafter "Herrod"). In view of the following discussion, this rejection is respectfully traversed.

Applicant understands the basis for maintaining the rejection to be set forth in the "Response to Arguments" section of the instant Office Action which provides that Applicant's "recitation 'mapping locations of wireless transmitters' has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead the process steps or structural limitations are able to stand alone. (citations omitted). Therefor[sic] the previous rejection is proper."

Applicant respectfully disagrees with any assertion that the recitation noted above is not deserving of patentable weight. Nevertheless, independent claims 1, 3 and 5 have been amended as may be seen with reference to the above Listing of Claims. As amended, the method of claim 1 comprises associating the data recited therein "to produce data mapping the locations of the wireless transmitters with the associated transmitter representative data"; the system of claim 3 comprises associating the data recited therein "to produce data mapping the

locations of the wireless transmitters with the data representing the respective wireless transmitters"; and, the method of claim 5 comprises associating the data recited therein "to produce data mapping the locations of the wireless transmitters with the transmitter data."

As has been discussed before and as reiterated now, Herrod is directed at providing mapping of product availability in a retail establishment, and particularly, in the vicinity of a user of its terminal 10. It does not teach or suggest mapping of the type now recited in Applicant's claims. Further, Herrod fails to even imply a need for, or purpose in, carrying out the association of data specifically referenced in each of claims 1, 3 and 5.

Accordingly, it is respectfully submitted that continued rejection of the claims now provided as being anticipated by Herrod is inappropriate; and thus, it is requested that the rejection be withdrawn.

II. Information Disclosure Statement

Applicant acknowledges and appreciates the noted consideration of the Information Disclosure Statement most recently submitted.

III. Conclusion

It is respectfully submitted that the claims now provided in the subject application patentably distinguish over the references made of record, and that the application is in condition for allowance. Accordingly, allowance of the application is respectfully requested.

The Examiner is invited to telephone the undersigned directly at (212) 790-9278 in the event that doing so is deemed helpful in any way.

The Director is authorized to charge any additional fees incurred by Papers submitted in this application, or, credit any overpayment to Deposit Account No. 03-3415.

Respectfully submitted,

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